

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Maritime Communications/Land Mobile LLC	)	File No. 0004417199
and Interstate Power and Light Company	)	Call Sign: WQGF316
Assignment of Authorization Application	)	
	)	
Maritime Communications/Land Mobile LLC	)	File Nos. 0004419431, 0004422320, and
and Wisconsin Power and Light Company	)	0004422329
Assignment of Authorization Applications	)	Call Signs: WQGF316 and WQGF317
	)	

To: Office of the Secretary

Attn: Wireless Telecommunications Bureau

Motion to Dismiss,  
Motion for Sanctions Against Assignees,  
and  
Motion for Sanctions Against Assignee Legal Counsel  
Errata copy [see FN 1]

Warren Havens (“Havens”), Environmental LLC (“ENL”), Verde Systems LLC (“VSL”), Intelligent Transportation & Monitoring Wireless LLC (“ITL”), Telesaurus Holdings GB LLC (“THL”), V2G LLC (“V2G”) and Skybridge Spectrum Foundation (“Skybridge”) (together “Petitioners”) hereby submit these motions (together, the “Motion”) regarding the “waiver” request submitted with the above-captioned applications and regarding those applications (the “Applications”) the apply to partition parts of the above-captioned licenses (the “Licenses”)<sup>1</sup> from Maritime Communications/Land Mobile LLC (“MCLM”) to Interstate Power and Light Company (“IPLC”) and Wisconsin Power and Light Company (“WPLC”) (together, “Alliant” or “Assignee” or “Assignees”).<sup>2 3</sup>

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<sup>1</sup> File No. 0004422329, in addition to partitioning, also seeks to disaggregate spectrum of WQGF317. ~~Errata in strikeout, dark red text for additions, and some underlining removed.~~

<sup>2</sup> As asserted in the waiver requests to the Applications, IPLC and WPLC are “wholly-owned subsidiaries of Alliant Energy Corporation”. Alliant Energy Corporation is requesting identical waivers on behalf of IPLC and WPLC. Therefore, for convenience herein, Petitioners are



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defining IPLC and WPLC together as “Alliant” or “Assignee.” However, Petitioners raise herein a certain challenge to Alliant representing said actual applicants, notwithstanding use of the term "Alliant" for the just-noted convenience purpose.

<sup>3</sup> See Attachment (i) hereto that contains an email from Roger Noel, Chief Mobility Division, to Petitioners regarding Petitioners being able to file a single petition to deny against all of the Applications.



## 1. Introduction, Summary, and Motions

The sanctions requested are stated below.

A full summary is provided in the table of contents above by the descriptive subheadings.

As shown below, since the Waivers Request (the “Request”) include parts that are required for grant of the Applications, and since those are facially defective and must be summarily dismissed (which is a form of denial under §1.925), and since Assignees presented no alternative proposal that fully complies with the rules for grant, the Applications must be summarily dismissed under Sections 1.934 (or at least summarily denied under 1.935, but in this Motion, we seek dismissal).

FCC instructions are here: <http://www.fcc.gov/Forms/Form601/601main.pdf> (underlining added):

### Waiver Requests

Requests for waiver must contain as an exhibit a statement of reasons sufficient to justify a waiver. The required showing must be made for all rule waivers desired, identifying the specific rules or policies for which the waiver is requested. Refer to the Fee Filing Guide for fee requirements for waivers....

FCC rule § 1.925 (c)(ii) provides:

(ii) Denial of a rule waiver request associated with an application renders that application defective unless it contains an alternative proposal that fully complies with the rules, in which event, the application will be processed using the alternative proposal as if the waiver had not been requested. Applications rendered defective may be dismissed without prejudice.

The subject “waiver” requests were presented as requirements (e.g., see section “D. Other Requirements” below) and in any case were presented without an alternative proposal that fully complies with the rules. Thus, the dismissal and related action requested herein should be taken.



2. The Waiver Request Regarding Challenges Authorized  
Under the Communications Act and FCC Rules  
And Conducted by the FCC  
Is Facially Defective and Frivolous

The “Waiver” Requests conclude with the following (underlining and items in brackets with the brackets added):

**D. Other Requirements**

IPL and WPL also request a waiver, to the extent needed, to ensure that their rights and interests to operate on the AMTS channels are not affected by certain proceedings pending /1/ at the FCC related to MCLM or /2/ the use of AMTS spectrum generally. These proceedings include but are not limited to: (1) the Enforcement Bureau proceeding investigating MCLM in EB No. 09-IH-1751, (2) the various petitions filed, or to be filed, by Warren C. Havens on his behalf or on behalf of his affiliated entities that would directly or indirectly affect IPL’s and WPL’s channel use rights, (3) the FCC’s decision in the *AMTS Flexibility Order* relating to the maritime service obligations of AMTS licensees; and (4) the FCC’s proposals in its *Uniform License Renewal Proceeding* to modify the construction and service requirements applicable to AMTS licensees. 38/[\*]

Accordingly, IPL and WPL respectfully request a declaratory ruling or a decision of comparable effect that their acquisition of AMTS spectrum as proposed herein will not be subject to the outcome of the above-referenced proceedings or to any new or changed FCC rules or policies that would adversely affect their rights and interests to operate on the AMTS channels to support their communications needs.

First, the above asks for “a waiver,” and “a declaratory ruling or a decision of comparable effect....”, it is clear that Assignees seek waivers of many rules and associated Communication Act sections, not any declaratory ruling under Section 1.2, since a request under §1.2 must present a clear existing case in controversy regarding lack of clarity in the subject rule or rules, and Assignees point to no such lack of clarity or an case in controversy of any such lack of clarity. Instead, Assignees simply ask the FCC to throw out clear fundamental

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[\*] Footnote 38 in original:

38. *Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, WT Docket No. 10-112, *Notice of Proposed Rulemaking and Order*, FCC 10-86 (rel. May 25, 2010)(“Uniform License Renewal Proceeding”).



law that is at the heart of FCC licensing and Congressional intent to protect the public interest.

Second, the request above does not define “Warren C. Havens... affiliated entities” nor does Assignees have any “channel use rights” at the time of this request. Thus, the request cannot apply to any entity but Warren C. Havens. Further, if the request is construed to mean affiliates of Mr. Havens under FCC Designated Entity (“DE”) rules, that is also not clear since affiliation changes over time based on circumstance, and in any case, Petitioner Skybridge Spectrum Foundation (“SSF”) (a nonprofit corporation with no private ownership or other ownership of any kind) is not an affiliate of Warren C. Havens under said DE rules for reasons that SSF explained to the FCC in its short- and long- forms in Auction 87. In addition, under DE rules, an affiliate is not necessarily controlled by or the controller of the associated affiliated: which means that Mr. Havens cannot be deemed controller of any DE affiliate, simply by said affiliation. In addition, the Enforcement Bureau is currently undertaking investigations of not only MCLM but also its affiliates (including Donald Depriest, Wireless Properties of Virginia, MariTEL and others) that are not listed above, but which also affect or may affect the right or lack of rights to the AMTS spectrum currently licensed in the name of MCLM, and where Sandra Depriest represents to the FCC that she is the sole interest holder and controller of MCLM: thus, the above “waiver” request does not effectively seek waiver of the Enforcement Bureau investigations related to the subject AMTS spectrum. For these and other reasons, the above “waiver” request is defective for lack of clear meaning, as well as for seeking relief that if granted would not serve the requested purpose. The FCC cannot on its own attempt to interpret and cure such language.

Principally, however, the above request is a direct challenge to FCC authority and duties under the Communications Act (§§ 308, 309, etc.), is frivolous, and cannot be processed. It is facially defective and must be dismissed. Since it is a requirement of the Applications, the Applications are facially defective and must be summarily dismissed. Assignees and their legal



counsel should be sanctioned for this abusive filing.

Assignees executed certifications under penalty of perjury on the Applications that included:

5) The Assignee/Transferee certifies that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.

That certification is false and is perjury for reasons given herein.

### 3. Lack of Standing

Assignees lack standing to pursue the Waiver requests for reasons the US ~~Circuit~~ **Court** of Appeals for the DC Circuit found in *SunCom v. FCC* (underling and item in brackets added):

SunCom filed requests with the Commission on February 1, 1994 for ... a waiver.... "

At the time SunCom filed the requests, it had no 220 MHz licenses of its own....according to SunCom, it was only after Commission approval of its requests that SunCom intended to "proceed ... to secure the participation of ... licensees in the network,"... These allegations fail to show the required "injury-in-fact," namely, "an invasion of a legally protected interest which is (a) concrete and particularized and (b) 'actual or imminent, not "conjectural" or "hypothetical," ' " *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560, 112 S.Ct. 2130, 2136, 119 L.Ed.2d 351 (1992) (citations omitted)....

*Suncom v. FCC*, 87 F.3d 1386; 318 U.S. App. D.C. 377; 1996 U.S. App. LEXIS 16257. In the instant case, Assignees have no rights in the Applications since they are dependent on “waiver” requests that cannot be granted, and thus the Applications cannot be granted., and thus, like SunCom, Assignees have not license rights at issue. Assignees have less of a case for standing than SunCom had. Unlike Assignees, Suncom did not have a frivolous case for its waiver requests, but as with Assignees in the instant case, SunCom’s rights to the subject spectrum was dependent on grant of the waivers. The court in SunCom **also** found that where no legal rights are vested except for the government relief that is sought, there is no standing to pursue the relief.



While the FCC may, as a general practice, entertain waiver requests in cases where standing is not demonstrated, it need not do that, and in any case, Assignees in the instant case will have no right to appeal any dismissal or denial of the “waiver” requests and Applications to the DC Circuit Court. However, Petitioners may appeal **any** grant of the “waiver” requests and Applications since any such grant would cause them entirely clear damage, as discussed in the Petition.

#### 4. The Wrong Bureau is Petitioned in an Essential Part

The Waiver Request discussed in Section 2 above seeks a waiver (or like relief, to make this legal process just go away for Alliant) of the FCC Enforcement Bureau investigation of MCLM and related parties (which in turn is integrally related to Petitioners “Section 309” proceeding against the long-form of MCLM in Auction 61).

That “waiver” request is facially defective since, with the Applications that present it and of which it is an integral required part, it addresses the Wireless Telecommunications Bureau, not the Enforcement Bureau. §1.44(c) provides:

(c) Requests requiring action by any person or persons pursuant to delegated authority shall not be combined in a pleading with requests for action by any other person or persons acting pursuant to delegated authority.

Further, 47 USC § 155(c) provides for the Commission to delegate authority to Bureaus as it has done (a “Delegated Authority”), and for Bureaus to handle various matters assigned to them. A party is barred from petitioning one Delegated Authority to “waive” another’s authority and proceedings by this statute as well as the FCC rule cited above.

Thus, on this basis along, that “waiver” request must be summarily dismissed and with it, the Applications that depend on it and present no rule-compliant alternative (as discussed above, citing to §1.925).



5. AMTS is a Maritime and Transportation Band  
By Origin, Rules, and Best Highest and Best Use Analysis:  
And  
No Case is Made or Can Be Made that Assignees  
Need to Use, or Have a Special Need For, AMTS Spectrum,  
And Especially, Under any Technical or Other Waivers

We present the above-captioned matter in this section. In sum, Assignees fail to demonstrate the public interest in diversion of one-half of a band meant for and best used for critical mobile vessel communications (maritime and ~~h~~ land) for smart-grid purposes that can be served by higher bands, especially in parts of the nation where there is an especially large amount of maritime **traffic**.

1. The history of AMTS **is** for maritime services, where safety of life is paramount and a main function, is clear, ~~along with~~ **as well as for** maritime communications thoroughness and efficiency. AMTS should be maintained primarily for maritime and other (land, rail, transport container, etc.) purposes since it is the only band below 400 MHz with ample unused spectrum on exclusive (non-shared) basis for critical advanced transportation communication functions. It should not be assigned, with rule waivers, solely for companies that seek more spectrum for fixed-site wireless services and any other services apart from those that concentrate on mobile, vehicle-installed (or transport container-installed) critical wireless. Herein, we call these services “Maritime and other ITS” (“ITS meaning broadly Intelligent Transportation Systems). It is clear that there is a great and growing demand for spectrum suitable for ITS and that AMTS (and some adjacent 220-222 MHz) is the most suitable band for the widest-area coverage in substantial use areas for the constant communications needed (vehicle to vehicle, and vehicle to network). It is also clear that higher spectrum bands are available and more suitable for other forms of wireless, as opposed to Maritime and other ITS, including for “smart grid.” It is further clear that power utilities are not actually in much need of spectrum per se, but what they need is an intelligent wireless plan including use of good, spectrum-efficient technology and



network architecture. Assignees demonstrate no such plan for using the AMTS or for their asserted “smart grid” either. Petitioners have numerous (over 100 and growing) documents substantiating the above in their web pages (with over 25,000 reads to date) at:

[www.scribd.com/warren\\_havens/shelf](http://www.scribd.com/warren_havens/shelf) , and [www.docstoc.com/profile/warrenhavens01](http://www.docstoc.com/profile/warrenhavens01) . Components and **P** **p**incipals in support of the above that are well established in the field of wireless, including FCC licensing of wireless, include **those documents and** the following.

Maritime and Other ITS is in large part based on high accuracy location (“HALO”) wireless infrastructure and services being developed in the US and globally. This is essential for advanced e911 and a host of non-emergency services to protect safety of life and create transportation efficiency, pollution and fuel use reduction, etc. HALO is projected to be ~~the~~ approximately the fifth largest (in terms of economic benefits) infrastructure after agriculture, transportation generally, telecommunications generally, energy sector, etc. and larger ~~than~~ Internet Commerce, and it may be the most beneficial in terms of reduction in loss of life and serious injuries. This is shown in studies by leading authorities in the filed, published by **P**etition**e**rs in their Scribd collections on this HALO subject, including a UC Berkeley study being completed in an approximately 60 days on nationwide HALO benefits to the US (the interim study is here (see footnote). <sup>4</sup> The final study draft projects in the range of \$300 billion annual benefits just to the ITS road-transport sector, not including other transport sectors and other domains (agriculture, mining, civil engineering and construction, seismic monitoring, emergency response, etc.)

2. Recently, in: *In re Alabama Educational Television Commission*, DA 10-568, 25 FCC Rcd 3223; 2010 FCC LEXIS 3401, Rel. March 31, 2010 (“*AETC*”) the FCC denied a waiver request and dismissed the associated spectrum assignment application even where it was

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<sup>4</sup> <http://www.scribd.com/doc/37796067/Nationwide-Cooperative-High-Accuracy-Location-C-HALO-Infrastructure-Cost-Benefit-Study-Aug-2010-Interim-Report-UC-Berkeley-Institute-of-Transport>



for a nonprofit entity providing public safety services. For reasons discussed below, this is instructive in the instant matter. The following is from AETC, with underlining and numbers in brackets added, and footnotes in original deleted:

... The Alabama Educational Television Commission ("AETC"), seeking the reassignment of nine UHF television channels at specified locations in Alabama. AETC states that it is currently the licensee of nine [1] noncommercial educational television stations in Alabama operating as Alabama Public Television ("APT"), and that it will use the additional UHF television channels to complete the construction of the [2] Alabama Digital Emergency/Education Network ("ADEN"). AETC describes ADEN as a statewide public safety and education network. n1 Because AETC seeks to operate on frequencies not designated for public safety entities, it requests a waiver of Sections 73.622, 73.1010 and 90.20(c) of the Commission's rules n2 [3] pursuant to Section 337(c) of the Communications Act of 1934, as amended, and Section **1.925** of the Rules. n3 For the reasons stated below, we deny AETC's request for a waiver and **dismiss** the application.

\* \* \* \*

AETC has failed [4] to justify a waiver of the Part 73 rules pursuant to Section **1.925**, which states that in order to obtain a waiver of the Commission's rules, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the requested waiver would be in the public interest; or (ii) in view of the unique or unusual factual circumstances of the existing case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative. As discussed above, grant of the requested waiver would not serve the public interest. We also note that there are reasonable alternatives to AETC's proposed reallocation. [5] AETC is already the licensee of nine noncommercial educational television stations licensed at the same sites proposed in its application. Provided that a DTV station transmits at least one over-the-air video program signal at no direct charge to viewers on its DTV channel, Section 73.624 of the Commission's rules permits DTV stations to offer other services, consistent with the public interest, convenience and necessity, on an ancillary basis. These services may include, but are not limited to, computer software distribution, data transmissions, teletext, interactive materials, aural messages, and paging services, provided on a broadcast, point-to-point or point-to-multipoint basis. Accordingly, it appears that most, if not all, of AETC's proposed uses for the nine new UHF channels it seeks could be met using its existing licensed stations, or by other television stations licensed to communities in Alabama.

Applying the above to the instant case, Assignees [1] are not a nonprofit entity like AETC that by law and operation directly serve the public interest, but instead are for profit companies that have public regulation (State public utility commissions, and certain federal



agency regulation of power utilities, etc.), but said regulation does not require, nor does any utility-trade organization even suggest, that Assignees use only or preferably AMTS spectrum for any purpose; . **Regarding [2], to [4] and [5] above:** –The subject waiver request does not meet these requirements **indicated, and should be dismissed.**

6. The Waiver Request and Public Interest Statement  
Undermines its Own Foundation  
And Supports Petitioner’s Petition **in this Case**  
And **Their** Still-Pending Petition Against Renewal  
of MCLM A and B Blocks in the Subject Geographic Areas

See Exhibit 1 (initially noted above) for a foundation. For decades, MCLM and its integrated predecessors (Mobex, Regionet-Watercomm, Orion and Fred Daniels, and their associates Paging Systems Inc,-Touchtel) adamantly insisted to the FCC that AMTS was for critical maritime communications, including – especially along the very Mississippi – Missouri River Inland Waterway System **in the middle of the Applications’ region,**<sup>5</sup> where they represented a need for and actual use of both A and B AMTS blocks for maritime service.

Where has that service gone? The Assignee Waiver and Public Interest Statement, and the associated Applications, are an effective admission that MCLM has permanently discontinued that alleged maritime service, including since there is no description at all of phasing out that service and the associated AMTS CMRS end users. (Further proof will be presented in this and other relevant proceedings.)

MCLM is on record with the FCC as to its belief that “automatic termination” for permanent discontinuance (with associated surrendering of the terminated licenses to the FCC

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<sup>5</sup> Watercom-Regionet, then continued by its successor MCLM, repeatedly represented to the FCC that it was so important and had such high demand for AMTS-provided maritime communications along this Inland Waterway that it has a need for both the A and B block AMTS spectrum, and that it was in fact using both blocks for sand maritime service demands.



for cancellation )<sup>6</sup> does not apply to AMTS site-based stations but the FCC has rejected that, as discussed in the Petition (nor does that belief square with the rules just footnoted, or the requirements of the Communications Act including in Section 309(j) as to construction requirements to prevent spectrum warehousing, and legislative, NTIA and FCC intent to hold auctions in part to ward off warehousing based on free licensing of spectrum).

Thus, one of the threshold issue in this proceeding (if, contrary to this Motion, the FCC does not summarily dismiss the Applications) is presented above: has some of the MCLM spectrum automatically terminated in the subject area, and if so, is that good cause to reject the Applications, apply sanctions, etc. Clearly, MCLM is in the position it now is in, in the subject Applications, due to its representation—which evidence shows to be fraudulent-- to the FCC, and the market including Petitioners (by itself and via its agents) that is it holds valid A and B block AMTS licensed stations in the subject geographic areas, and also its representation that these stations have is has a range of interference protection that it asserts only to buyers, and refused to disclose as required to the co-channel geographic licensees (two of Petitioners) under §80.385(b) and the two related orders noted herein, or to the FCC.

#### 7. Technical Waiver Request Lacks Technical Showing and Public Interest Basis

First, we reference and incorporate herein the same Petitioners' past presentations made to the FCC opposing the same or closely similar technical waiver requests submitted by other potential assignees of MCLM AMTS spectrum (including Big Rivers Electric Cooperative and the Southern California Railroad Administration, among others): in specific, we include here the same reference and incorporation as used in the Petition to Deny filed concurrently with this

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<sup>6</sup> See: 47 CFR §§80.49(a)(3), 1.946(b)-(d), 1.955(a)(2), the condition on these site-based licenses, and §§ 80.475(a). (§80.475(a) was never lawfully changed to delete the continuity of coverage requirement for site-based AMTS applications [and construction by the deadline, and renewals], but even if deemed lawfully removed, it was in effect at times of misrepresentation by MCLM and its successors, as Petitioners explain in their relevant proceedings before the FCC and the Courts of Appeal.)



Motion, it **in** said Petition's section on the subject "waiver" requests. Since all of those past presentations are in the FCC public records, easily and fully accessible to the FCC, MCLM, and the Assignees in the instant matter, there is no need to repeat those here.

8. MCLM- Spectrum Bridge- Wiley Rein- Alliant  
Laundering and Criminal Conspiracy:  
Beyond FCC Jurisdiction:  
and Renders Waiver Requests Defective

What is noted immediately above is a continuation of the sham (described at length in  
Petitioner's concurrently filed Petition to Deny) involving:

MCLM and its subsumed predecessors engaging in illegal and criminal conspiracies  
to defraud both the FCC and Petitioners as competitors, and now want to cash in on that:

**Spectrum Bridge**, and now **Wiley Rein** and **Alliant** (among others) are the laundry  
shops of the crime, and Alliant's subsidiaries are the customers of the crime in this particular  
case (among others).

This is not only against the Communications Act "public interest" requirement for license  
actions, but involves actual criminal conspiracy. That is beyond the jurisdiction of the FCC and  
must be handled by *federal inspector and prosecutor* offices.

The Petition further discussed the above. It is noted here in relation to the Waiver and Public Interest Statement since (1) said Statement further reveals the scam and crime involved, and (2) that in turn further shows the "unclean hands" of Alliant that undercuts even a good case for waivers, if it had any (which it does not).

9. Abuse of Process and False and Misleading Statements

The disqualification created by lack of candor, false and misleading statements, and the like is well known.

[T]he Commission defines lack of candor to include not only providing false information but also "concealment, evasion or other failure to be fully informative accompanied by an intent to deceive." *Trinity Broad. of Fla., Inc.*, 10 F.C.C.R. 12020, 12063 (1995).



*James A. Kay v. FCC*, 396 F.3d 1184; 364 U.S. App. D.C. 448; 2005 U.S. App. LEXIS 1540 (hearing, en banc, denied). In this *Kay* case, the US Circuit Court for FCC upheld the FCC decision including the following:

See also *RKO General, Inc. v. FCC*, 670 F.2d 215, 229 (D.C. Cir. 1981) ("As a licensing authority, the Commission is not expected to 'play procedural games with those who come before it in order to ascertain the truth'. . . . [....] Moreover, the failure to provide information known to be relevant or a failure to respond based on a facially implausible theory may constitute lack of candor. *Fox Television Stations, Inc.*, 10 FCC Rcd at 8508 PP137.

*In the Matter of James A. Kay, Jr.*, FCC 01-341. Released January 25, 2002. 17 FCC Rcd 1834; 2002 FCC LEXIS 409.

For reasons noted above, the ~~TA Petition~~ "waiver" request also appears to be an abuse of process under standards the Commission has set:

....concealed material facts...."none of NMTV's applications seeking a minority exemption . . . disclosed to the Commission information about Duff's relationship with TBN or NMTV's relationship with TBN.".... NMTV's applications were "models of nondisclosure" ... and therefore constituted abuse of process.

*In re Applications of Trinity Broadcasting of Florida*, FCC 98-313. Released April 15, 1999. 14 FCC Rcd 13570; 1999 FCC LEXIS 1591. In the instant matter, the Assignees (filing only by action of MCLM, thus with MCLM) ~~TA~~ does not disclose the most relevant decisional facts noted herein and in the Petition (the Motorola blocking and threats), and together with the other defects shown herein it asserts a false premise, as discussed above: that ~~is~~ appears to be abuse of process. Submitting a petition to the FCC that one knows, or should know, to be futile and thus pursued for some other reason is also abuse of process.



## 10. Sanctions Should be Imposed

Sanctions should include, at minimum, dismissal of the Applications with prejudice to filing any other license assignment applications or other applications involving MCLM and any spectrum controlled by MCLM or persons that control or are controlled by MCLM, at least until and unless the FCC by final order finds in favor of MCLM with regard to the spectrum subject of the Applications in all now-pending proceedings against MCLM and / or the subject spectrum and any other future proceedings that arise out of or related to the pending proceedings. Other sanctions should also be applied, including against the legal counsel of Assignees due to the egregious violations involved, including of FCC rule §§ 1.24 (disbarment is called for in this case), 1.52,<sup>7</sup> <sup>8</sup> and 1.17 and Communication Act Sections 47 USC 309 and 308. The FCC states on the Instructions to Form 601 (underlining added):<sup>9</sup>

**Frivolous Pleadings.** The Commission reminds parties to our proceedings and their attorneys that the Commission intends to fully use its authority to discourage and deter the filing of frivolous pleadings. *See* “Commission Taking Tough Measures Against Frivolous Pleadings”, *Public Notice*, 11 FCC Rcd. 3030 (1996).

## 11. Other

For the same reasons given the Petition, this Motion may be amended.

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<sup>7</sup> This rule S1.52 includes the following, *which if it does not apply here, it never will apply* (emphasis added):

The original of all petitions, motions, pleadings, briefs, and other documents filed by any party represented by counsel shall be signed by at least one attorney of record in his individual name....The signature or electronic reproduction thereof by an attorney constitutes a certificate by him that he has read the document; that to the best of his knowledge, information, and belief there is good ground to support it.... If the...document ...is signed with intent to defeat the purpose of this section...it may be stricken as sham and false.... An attorney may be subjected to appropriate disciplinary action, pursuant to § 1.24, for a willful violation of this section....

<sup>8</sup> §§ 124 and 1.52 reflect FRAP 11, copy at: <http://www.law.cornell.edu/rules/frcp/Rule11.htm> . The law firm involved, not only the attorney or attorneys, may properly be sanctioned.

<sup>9</sup> Copy at: <http://wireless.fcc.gov/auctions/30/releases/d001035d.doc>.



Respectfully,

**Environmental LLC (formerly known as AMTS Consortium LLC), by**

*[Filed electronically. Signature on file.]*

Warren Havens, President

**Verde Systems LLC (formerly known as Telesaurus VPC LLC), by**

*[Filed electronically. Signature on file.]*

Warren Havens, President

**Intelligent Transportation & Monitoring Wireless LLC, by**

*[Filed electronically. Signature on file.]*

Warren Havens, President

**Telesaurus Holdings GB LLC, by**

*[Filed electronically. Signature on file.]*

Warren Havens, President

**V2G, LLC, by**

*[Filed electronically. Signature on file.]*

Warren Havens, President

**Skybridge Spectrum Foundation, by**

*[Filed electronically. Signature on file.]*

Warren Havens, President

**Warren Havens, an Individual**

*[Filed electronically. Signature on file.]*

Warren Havens

Each of Petitioners:

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Berkeley, CA 94705  
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Date: December 22, 2010



Declaration

I, Warren Havens, as President of Petitioners, hereby declare under penalty of perjury that the foregoing Motion including all attachments was prepared pursuant to my direction and control and that all the factual statements and representations contained herein are true and correct.

*/s/ Warren Havens*  
*[Submitted Electronically. Signature on File.]*

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Warren Havens

December 22, 2010



## Exhibit 1

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The first page below is from the Assignees Waiver Request and Public Interest Statement.

The second page below is from a US Army Corps of Engineers publication IWR Report 05-NETS-R-12, "AN OVERVIEW OF THE U.S. INLAND WATERWAY SYSTEM," copy available here: <http://www.corpsnets.us/docs/other/05-NETS-R-12.pdf>.

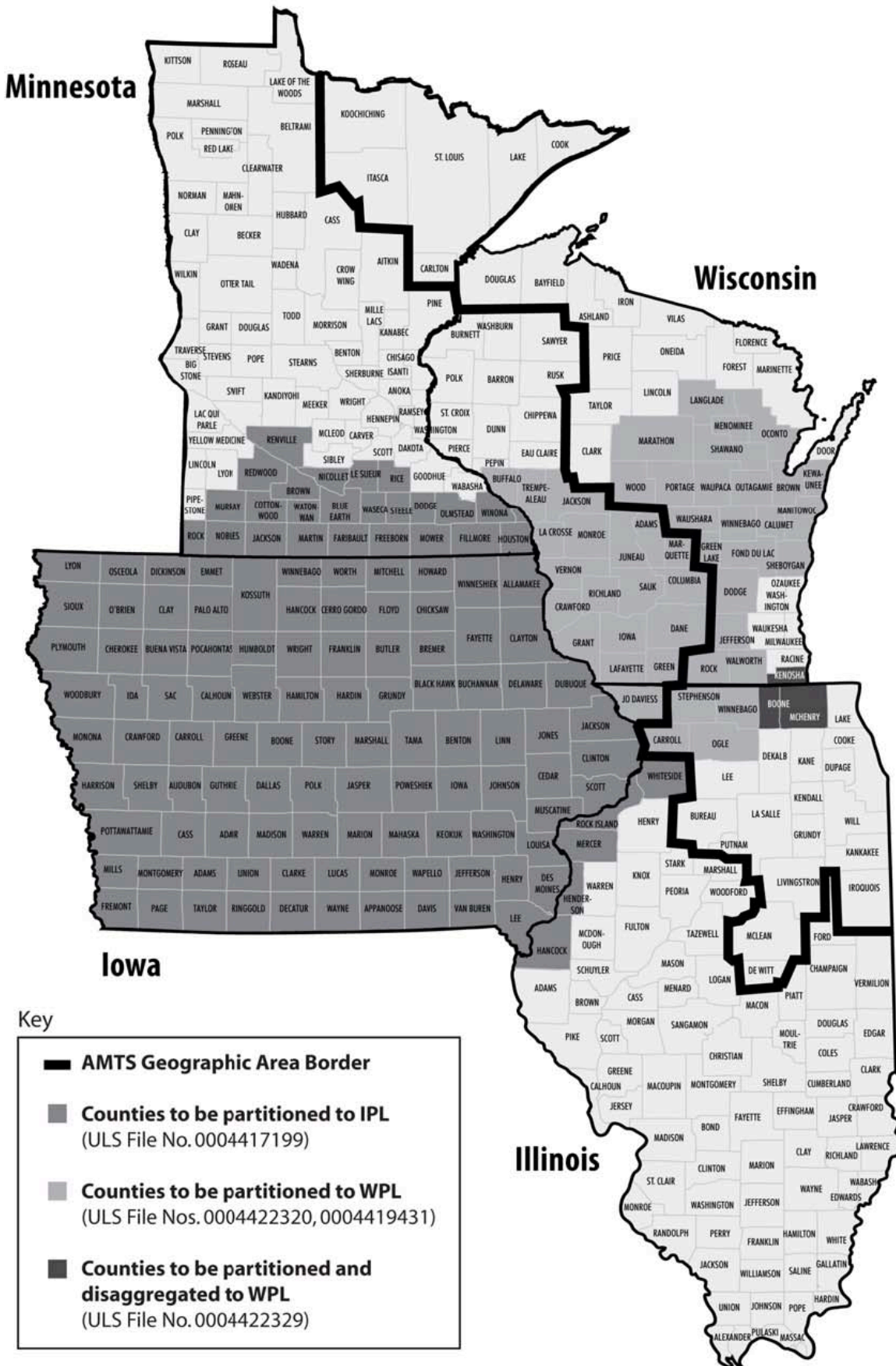
This is presented to show that the main US inland maritime waterway, one that (as the above report shows) is critical to US industry and transportation, runs right through the middle of the geographic area of the proposed AMTS spectrum assignments. Also, this shows that important segments of the Great Lakes is also involved, another critical maritime transport area of the Nation.

In addition, wherever, as here, there are major maritime transport areas, there are also intermodal transportation ports and exchange facilities, where transportation containers and bulk goods are switched among maritime, rail, truck and air transport components.

[Errata copy note: by mistake in the original, third page below duplicates the first page below.]



## AREAS TO BE ASSIGNED TO IPL AND WPL



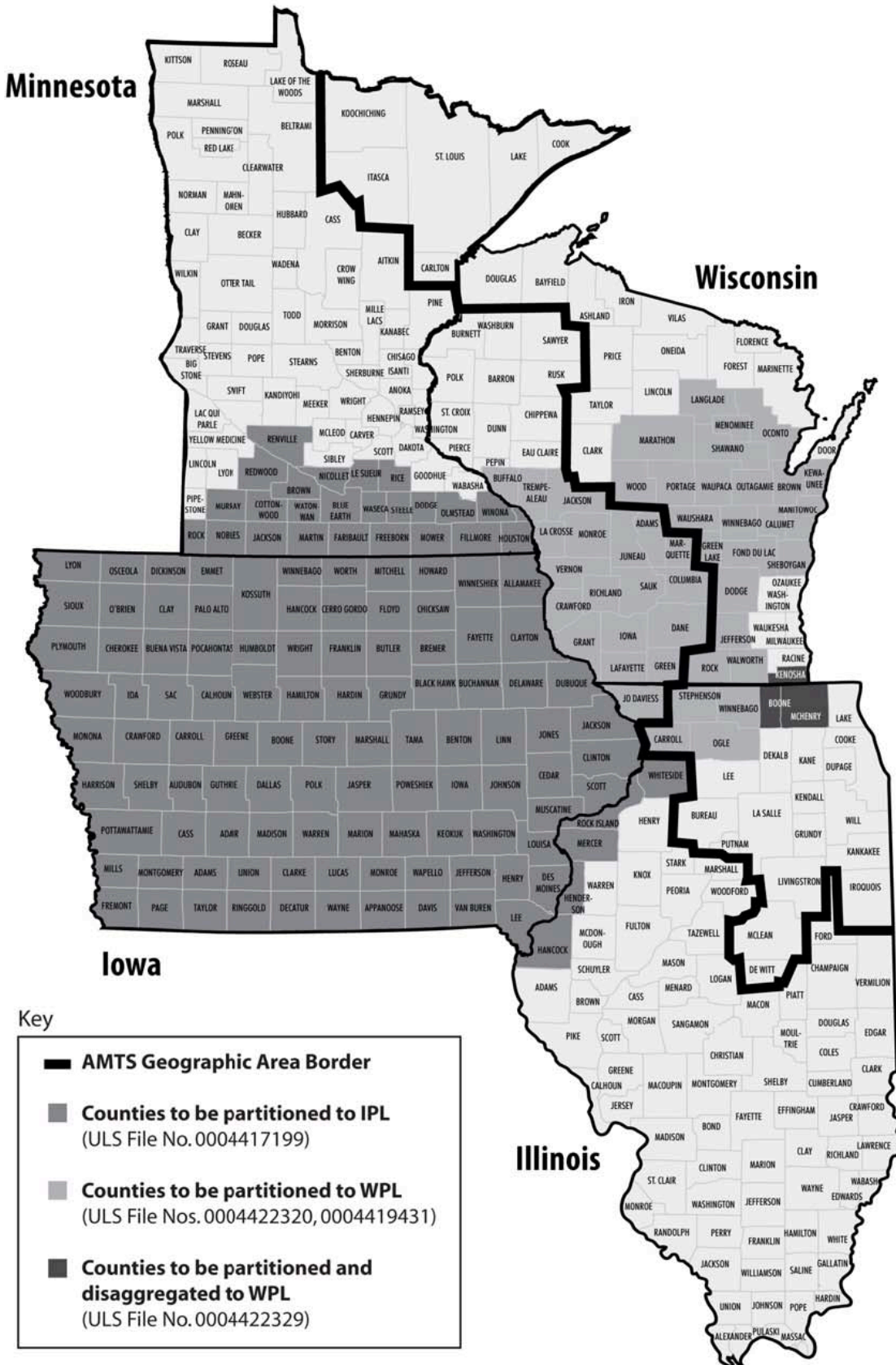




**Figure 3-1: The Mississippi River System**



## AREAS TO BE ASSIGNED TO IPL AND WPL





### Certificate of Service

I, Warren C. Havens, certify that I have, on this 22<sup>nd</sup> day of December 2010, caused to be served, by placing into the USPS mail system with first-class postage affixed, unless otherwise noted, a copy of the foregoing Motion<sup>10</sup> to the following:<sup>11</sup>

Jeff Tobias, Mobility Divison, WTB  
Federal Communications Commission  
Via email only to: [jeff.tobias@fcc.gov](mailto:jeff.tobias@fcc.gov)  
(The Petition's text only)

Lloyd Coward, WTB  
Federal Communications Commission  
Via email only to: [Lloyd.coward@fcc.gov](mailto:Lloyd.coward@fcc.gov)  
(The Petition's text only)

Hillary S. DeNigro, Chief  
Investigations & Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
Via email only to: [Hillary.denigro@fcc.gov](mailto:Hillary.denigro@fcc.gov)  
(The Petition's text only)

Gary Schonman, Special Counsel  
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(The Petition's text only)

Brian Carter  
Investigations and Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
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(The Petition's text only)

Dennis Brown (legal counsel for MCLM and Mobex)  
8124 Cooke Court, Suite 201  
Manassas, VA 20109-7406

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<sup>10</sup> ~~Petitioners are serving a copy of the Petition's text only, excluding exhibits and attachments, to certain of the parties as noted on this Certificate of Service. A copy of the exhibits and attachments can be downloaded electronically from ULS.~~

<sup>11</sup> The mailed copy being placed into a USPS drop-box today may not be processed by the USPS until the next business day.



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(The Petition's text only)

*/s/ [Filed Electronically. Signature on File]*

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Warren Havens